

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

AFFAN SIRAJ ZUHAYR EL,

Plaintiff,

v.

MARRIOTT INTERNATIONAL, INC.,

Defendant.

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No. 4:22-cv-00236-HEA

OPINION, MEMORANDUM AND ORDER

This matter comes before the Court on a complaint filed by plaintiff Affan Siraj Zuhayr El. (Docket No. 1). Plaintiff has not filed a motion for leave to proceed in forma pauperis or paid the filing fee. Additionally, he has not adequately alleged the Court's subject matter jurisdiction. For the reasons discussed below, the Court will direct plaintiff to either file a motion for leave to proceed in forma pauperis or pay the entire filing fee. Furthermore, he will be directed to show cause as to why his case should not be dismissed for lack of jurisdiction.

Motion for Leave to Proceed in Forma Pauperis

In order to proceed with this civil action, plaintiff must either file a motion for leave to proceed in forma pauperis or pay the entire filing fee of \$402. Plaintiff will be given thirty days in which to comply. If plaintiff does not comply by either filing a motion for leave to proceed in forma pauperis or paying the filing fee, this action will be dismissed without prejudice and without further notice.

Order to Show Cause

Subject matter jurisdiction refers to a court's power to decide a certain class of cases. *LeMay v. U.S. Postal Serv.*, 450 F.3d 797, 799 (8th Cir. 2006). "Federal courts are not courts of

general jurisdiction; they have only the power that is authorized by Article III of the Constitution and the statutes enacted by Congress pursuant thereto.” *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986). The presence of subject matter jurisdiction is a threshold requirement that must be assured in every federal case. *Kronholm v. Fed. Deposit Ins. Corp.*, 915 F.2d 1171, 1174 (8th Cir. 1990). As such, the issue of subject matter jurisdiction may be raised at any time, by any party or the court. *Gray v. City of Valley Park, Mo.*, 567 F.3d 976, 982 (8th Cir. 2009).

Before plaintiff’s case can proceed, the Court has to be satisfied that it has subject matter jurisdiction. To that end, plaintiff has alleged that this Court has federal question jurisdiction. (Docket No. 1 at 3). In explaining the basis for this assertion, plaintiff states the following, in its entirety:

The Supreme Law of this land being the United States Republic Constitution 1791/1836 (6th Amendment), the Treaty of Peace and Friendship of 1786/1836, The Zodiac Constitution ©AA222141/ Library of Congress, Washington, District of Columbia, the Commerce Clause of the Constitution (art. I, § 8 Cl.3), the Treaty Clause (art. II, §2, cl.2).

The Court notes that federal question jurisdiction gives district courts “original jurisdiction over civil actions arising under the Constitution, laws, or treaties of the United States.” *Griffioen v. Cedar Rapids & Iowa City Ry. Co.*, 785 F.3d 1182, 1188 (8th Cir. 2015). While plaintiff references the constitution, the 6th Amendment, and a treaty, he has not presented any factual allegations demonstrating how those are implicated in this case. *See Markham v. Wertin*, 861 F.3d 748, 754 (8th Cir. 2017) (explaining that the well-pleaded complaint rule provides that jurisdiction exists only when a federal question is presented on the face of a plaintiff’s properly pleaded complaint). That is, the sole defendant in this case is Marriott International, Inc., which is a private corporation. The allegations appear to suggest that Marriott did not properly secure its parking lot, leading to plaintiff’s car being damaged. These facts do not demonstrate the violation of a

constitutional right, the violation of a treaty, or show that Marriott is a state actor or acting under color of state law. Therefore, plaintiff has not adequately shown the existence of federal question jurisdiction.

Plaintiff will be given an opportunity to show cause as to why this case should not be dismissed for lack of subject matter jurisdiction. His written response is due within thirty days of the date of this order. Failure to respond will result in the dismissal of this action without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall send to plaintiff a copy of the Court's motion for leave to proceed in forma pauperis form.

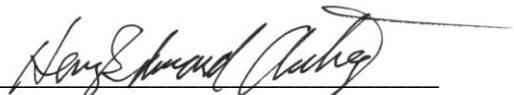
IT IS FURTHER ORDERED that plaintiff shall either file a motion for leave to proceed in forma pauperis or pay the full filing fee within **thirty (30) days** of the date of this order.

IT IS FURTHER ORDERED that if plaintiff fails to either file a motion for leave to proceed in forma pauperis or pay the full filing fee within **thirty (30) days** of the date of this order, this action will be dismissed without prejudice and without further notice.

IT IS FURTHER ORDERED that plaintiff shall show cause in writing and within **thirty (30) days** of the date of this order as to why this case should not be dismissed for lack of subject matter jurisdiction.

IT IS FURTHER ORDERED that if plaintiff fails to file a show cause response in writing and within **thirty (30) days** of the date of this order, this action will be dismissed without prejudice and without further notice.

Dated this 1st day of March, 2022.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE